

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF  
MASSACHUSETTS, et al.,

Defendants.

U.S. DISTRICT COURT  
DISTRICT OF MASS.

**ANSWER TO PLAINTIFF  
UNITED STATES OF AMERICA'S COMPLAINT**

Pursuant to Fed. R. Civ. P. 8, the defendants respond to the Complaint for Declaratory and Injunctive Relief of the plaintiff United States of America ("Complaint") as follows:

**FIRST DEFENSE**

1. The allegations in the first sentence of Paragraph 1 of the Complaint constitute a summary overview description of the plaintiff's asserted cause of action to which no response is required. The allegations in the second and third sentences of Paragraph 1 constitute conclusions of law to which no response is required.

2. The allegations in Paragraph 2 of the Complaint constitute conclusions of law to which no response is required.

3. The allegations in Paragraph 3 of the Complaint constitute a summary overview of the plaintiffs' requested relief to which no response is required.

4-6. The allegations in Paragraphs 4-6 of the Complaint constitute conclusions of law to which no response is required.

7-11. The defendants admit the allegations in Paragraphs 7-11 of the Complaint.

12-21. The allegations in Paragraphs 12-21 of the Complaint constitute conclusions of law to which no response is required.

22. The defendants admit the allegations in the first textual sentence of Paragraph 22 of the Complaint. The defendants deny the allegations in the second textual sentence of Paragraph 22 except that they admit the existence of NOAA Navigational Charts 13218 and 13230, which documents are in writing and speak for themselves. The defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first independent clause of the third textual sentence of Paragraph 22 and admit the allegations in the second independent clause of that sentence. The defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the fourth textual sentence of Paragraph 22. The allegations in the fifth textual sentence of Paragraph 22 constitute conclusions of law to which no response is required.

23-30. The allegations in Paragraphs 23-30 of the Complaint constitute conclusions of law to which no response is required.

31. The defendants admit the allegations in the first textual sentence of Paragraph 31 of the Complaint; further answering, the defendants state that the Commonwealth's position regarding enforcement of the state legislation at issue is as set forth in Governor Romney's November 16, 2004 letter to Coast Guard Commandant Thomas H. Collins and the December 30, 2004 Notice of Department of Environmental Protection's Promulgation of Tugboat Escort

Regulations on an Emergency Basis (as posted on the Department's web site), both of which documents are in writing and speak for themselves. The defendants admit the allegations in the citation sentence and the second textual sentence of Paragraph 31 except that they deny that the section number of the regulation in question is 13.00; further answering, the defendants state that the correct citation is 314 C.M.R. 19.00.

32. The defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32 of the Complaint.

33. As Paragraph 33 of the Complaint realleges the allegations in Paragraphs 1-32, the defendants restate and incorporate by reference Paragraphs 1-32 of this Answer as if fully set forth herein.

34-35. The allegations in Paragraphs 34-35 of the Complaint constitute conclusions of law to which no response is required.

36. As Paragraph 36 of the Complaint realleges the allegations in Paragraphs 1-35, the defendants restate and incorporate by reference Paragraphs 1-35 of this Answer as if fully set forth herein.

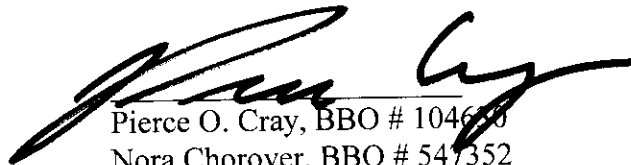
37. The allegations in Paragraph 37 of the Complaint constitute conclusions of law to which no response is required.

**SECOND DEFENSE**

38. The challenged provisions of the Massachusetts statutes at issue are severable from those statutes' other provisions.

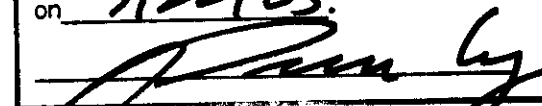
By their attorneys,

THOMAS F. REILLY  
ATTORNEY GENERAL



Pierce O. Cray, BBO # 104658  
Nora Chorover, BBO # 547352  
Assistant Attorneys General  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

Dated: March 22, 2005

<p><b>CERTIFICATE OF SERVICE</b></p> <p>I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand) on <u>3/22/05</u>.</p> 
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